

The Duty to Record: Ethical, Legal, and Professional Considerations for Indiana Psychologists

Introduction

The American Psychological Association Practice Directorate has provided an excellent online presentation about electronic healthcare records (EHRs) and the basic terminology related to EHRs; the presentation dispels common myths about EHR systems and provides detail about their meaningful use in integrated health care settings.¹

The Division 31 and 42 EHR working group's² primary goal was to create a series of State specific templates that would work well for psychologists as they transition into the use of EHRs, particularly in integrated health care settings where shared information is clinically essential and specific laws or regulations may dictate at least some of what is included in those records. To achieve this goal, we conducted a review of the laws related to record keeping, and the relevant and recent literature (particularly the last decade) regarding EHRs, including variations across states. Further, we consulted with key psychologists that have been using EHRs on a day to day basis, who have developed experience establishing policies and processes within their own institutions and practices. They have effectively used this developing technology to improve clinical care while protecting patient rights. They have found that the EHR enables collaborating professionals within the integrated health care settings to understand the behavioral risk factors that exist in each case and to be kept informed about the health behavior changes that occur with psychological service interventions (HRSA, 2012).³

In order to digest the laws accurately, we examined the annotated codes and regulations available on Westlaw and Lexis for the 50 states and the District of

¹ Electronic Health Records: A Primer (retrieved Nov. 29, 2012 at

<http://www.apapracticecentral.org/update/2012/11-29/electronic-records.aspx>.

² Christina Luini, J.D., M.L.I.S.; Dinelia Rosa, PhD.; Mary Karapetian Alvord, PhD.; *Vanessa K. Jensen, PsyD.*; Jeffrey N. Younggren, PhD.; G. Andrew H. Benjamin, JD, PhD, ABPP. The working group, came together to discharge the obligations of the CODAPAR grant that we wrote and received: <http://www.apadivisions.org/division-31/news-events/grant-funding.aspx>.

³ Preparing the Interprofessional Workforce to Address Health Behavior Change. (retrieved Nov. 11, 2012 at http://www.hrsa.gov/advisorycommittees/bhpradvisory/acicbl/Reports/acicbl_tenth_report_final.pdf).

Columbia with reference to several relevant state-by-state surveys retrieved from Lexis and Westlaw.⁴ Our research answered the following questions for each jurisdiction: (a) Do record keeping duties created by statutes or administrative rules exist? (b) Have court rulings created a common-law duty or interpreted the statutes or administrative rules? (c) What are the contents of the record that are mandated by law? (d) Are there laws related to the maintenance and security of records? (e) What are the laws related to retention of records? (f) What are the consequences of violating specific duties?

Readers should view the narrative summary of their jurisdiction's law as a starting point for interpreting how to meet the law within their own jurisdiction as they construct their electronic records. As laws can change, please check the law with your state associations to see if more current interpretations for meeting the record keeping duties. Many state professional associations have ethics committees that can be consulted as part of their benefits. In addition, your association can refer psychologists for individual consultation to lawyers specializing in legal practices focused on *mental health practice*. The professional liability carriers also provide free legal and professional consultation.

Indiana specific templates for the types and contents of the record are provided based upon a review of your jurisdiction's law. The digest of your jurisdiction's law should be read if you intend to use the templates.

State Specific Template for contents of a record

Indiana law calls for an intake and evaluation note, and progress notes. The contents of the two templates for these documents comply with the law digested below. We believe that a termination note will likely reduce exposure to arguments about continued duty of care and reduce the risk of responsibility in a duty to protect/warn jurisdiction, such as Indiana, and recommend that psychologists use this template, too.⁵

Because the documents permit hovering over the underline fields with a cursor to select an option or permit filling in the shaded text boxes, they cannot be inserted

⁴ 50 State Surveys, Legislation & Regulations, Psychologists & Mental Health Facilities (Lexis March 2012); Lexis Nexis 50 State Comparative Legislation / Regulations, Medical Records (Lexis June 2011); 50 State Statutory Surveys: Healthcare Records and Recordkeeping (Thomson Reuters/ West October 2011).

⁵ Benjamin, G. A. H., Kent, L., & Sirikantraporn, S. (2009). Duty to protect statutes. In J. L. Werth, E.R. Welfel, & G. A. H. Benjamin (Eds.), *The duty to protect: Ethical, legal, and professional responsibilities of mental health professionals* (pp. 9 – 28). Indiana, DC: APA Press. doi:10.1037/11866-002.

into this document.⁶ Please access each of the documents on this website, separately.

Our group also suggests that users of the templates consider how “behavior may be shaped by culture, the groups to which one belongs, and cultural stereotypes.”⁷ Whenever “Eurocentric therapeutic and interventions models”⁸ may impair the consideration of multicultural factors among the integrated health care team members, we urge that psychologists note the factors within the appropriate template fields. In light of the World Health Organization’s demonstrated commitment to the formulation of a diagnostic system that moves beyond biological causation and integrates the contributions of psychological, cultural, and social factors, and APA’s participation in the development of the *International Classification of Functioning, Disability and Health* (World Health Organization, 2010), our group recommends using ICD-10 whenever diagnoses are being made.⁹ The EHR templates permit drop down diagnoses using the ICD-10 functional diagnoses.

Statute or Rule

Neither the Indiana Code (statutes passed by the legislature), or the Indiana Administrative Code (rules promulgated by Indiana’s State psychology Board) explicitly adopted the APA’s Ethical Principles of Psychologists and Code of Conduct.¹⁰ The Board has, however, adopted its own “Code of Professional Conduct” for Indiana psychologists, which sets forth several obligations related to

⁶ Please use the most recent version of WORD to access the full capabilities of the EHR templates.

⁷ American Psychological Association. (2002). *Guidelines on Multicultural Education, Training, Research, Practice, and Organizational Change for Psychologists* (pp.17-24; p. 11). Indiana, DC: Authors (<http://www.apa.org/pi/oema/resources/policy/multicultural-guideline.pdf> (last accessed August 1, 2012).

⁸ *Id.* at p. 45.

⁹ See ICD-10 at <http://apps.who.int/classifications/icd10/browse/2010/en> (last accessed August 1, 2012); The APA Policy and Planning Board recognized how psychology could move forward by turning to a diagnostic system that was based on the concept of functional impairments (APA Policy and Planning Board, (2005). APA 2020: A perfect vision for psychology: 2004 five-year report of the policy and planning board. *American Psychologist*, 60, 512-522, 518. (See, <http://www.apa.org/about/governance/bdcmte/five-year-report.pdf> ; and APA has helped fund the creation of the 10th edition in 2008. See, <http://www.apa.org/about/governance/council/08aug-crminutes.aspx> (last accessed August 1, 2012)).

¹⁰ 868 Ind. Admin. Code 1.1-7-5(d): “competence” states-- (d) The competent practice of psychology includes acting within generally accepted ethical principles and guidelines of the profession and maintaining an awareness of personal and professional limitations.

record keeping.¹¹ In addition, Indiana psychologists are subject to a number of provisions governing mental health records.¹²

Common Law

Indiana Code creates a duty to warn or protect when the client has communicated an actual threat or “evidences conduct or makes statements indicating an imminent danger that the client will...cause serious personal injury or death to others.”¹³ The statute also releases the clinician from any liability for failure to warn in other situations.¹⁴ It appears that an earlier common law case helped to establish Indiana’s duty to warn or protect statute: While a mental health facility to which patient was involuntarily committed had a duty under mental health records statute to keep all information obtained and maintained confidential, public policy supported recognition of exception under common law (prior to enactment of immunity statutes) whereby facility could disclose patient's murder threats to her alleged target.¹⁵

Relevant annotations to IND. CODE ANN. § 25-33-1-17 (re: exceptions to psychologist-patient privilege):

- In opposing motion to quash subpoena *duces tecum* in prosecution for murder, state was not entitled to review documents that allegedly fell within psychologist/patient privilege to determine whether documents were subject to homicide exception; allowing state to determine if privilege applied would have eviscerated reason for privilege. Trial court conducted *in camera* inspection of documents. Trial court acted within its discretion when it determined in prosecution for murder that contested documents did not fall within homicide exception to psychologist/patient privilege; although state interviewed several witnesses that gave state reason to believe that documents fell within homicide exception, state did not present to trial court any information that was obtained from those witnesses and that formed basis for state's belief.¹⁶

¹¹ See 868 IND. ADMIN. CODE §§ 1.1-11-0.5, *et. seq.*

¹² IND. CODE ANN. §§ 16-18-2-295 (definition of “providers” includes psychologists); IND. CODE ANN. § 16-18-2-226: “Mental health records”, for purposes of IC 16-39, means recorded or unrecorded information concerning the diagnosis, treatment, or prognosis of a patient receiving mental health services or developmental disability training...

¹³ IND. CODE ANN. § 34-30-16-1.

¹⁴ *Id.*

¹⁵ *Rocca v. Southern Hills Counseling Center, Inc.*, App.1996, 671 N.E.2d 913.

¹⁶ [State v. Pelley, 2005, 828 N.E.2d 915](#), on remand [2006 WL 6080223](#).

- Information sought by defendant from psychologist and social worker regarding any incriminating statements third person may have made relating to fact or immediate circumstances of homicide with which defendant was charged was not protected by psychologist-patient privilege.¹⁷
- Psychologist-patient privilege does not apply in proceeding to terminate parental rights and, thus, testimony of psychologists who examine parents is admissible in termination hearings.¹⁸
- Defendant could not use statutory psychologist/patient privilege of alleged rape victim as weapon to prevent psychologist, who concluded that victim suffered from posttraumatic stress disorder, from testifying regarding conversations between psychologist and victim, even though victim allegedly had not waived privilege.¹⁹

Relevant annotations to IND. CODE ANN. § 31-33-5-1, *et. seq.* (re: reports of child abuse and neglect)

- Failure to report child abuse or neglect was a continuing offense; statute imposed a continuing duty to report by providing that an individual was not relieved of obligation to report until a report has already been made to the best of the individual's belief.²⁰
- Hospital's immunity from liability in a medical-malpractice action for making a report of possible child abuse, which was based on the discovery of sperm in the urine of 11-month-old child who had been brought to hospital by parents due to an unexplained fever, extended to the underlying examination, tests, and diagnosis that triggered the report; the examination, testing, and diagnosis were inextricably linked with the making of the report, as there would have been no report without the examination, testing, and diagnosis.²¹

Relevant annotations to IND. CODE ANN. § 16-39-2-6 (Disclosure without patient's consent-immunities)

- Confidentiality provision of mental health records statute applies to all

¹⁷ [Jorgensen v. State, 1991, 574 N.E.2d 915.](#)

¹⁸ [Ross v. Delaware County Dept. of Public Welfare, App.1996, 661 N.E.2d 1269](#), transfer denied [667 N.E.2d 182.](#)

¹⁹ [Goodwin v. State, App. 3 Dist.1991, 573 N.E.2d 895](#), transfer denied.

²⁰ [Lebo v. State, App.2012, 977 N.E.2d 1031.](#)

²¹ [Anonymous Hosp. v. A.K., App.2010, 920 N.E.2d 704.](#)

information obtained and maintained, not only to written or printed records.²²

- In involuntary commitment proceeding, court properly allowed physician to have access to patient's medical records, even though patient did not employ that physician; physician was psychiatrist and medical director at hospital at which patient was detained, and physician testified that in recent past he had treated and examined patient daily.²³

Relevant annotations to Ind. Code Ann. § 16-39-5-3 (re: Provider's use of records; data aggregation; confidentiality; violations):

- Swanson Center argues that Kuhn and Hippi's actions were unprotected because they were unlawful. Specifically, Swanson Center argues that Kuhn and Hippi violated federal and state privacy laws by disclosing confidential patient records to an outside attorney as part of their investigation. However, Kuhn and Hippi note that HIPAA expressly provides an exemption for whistleblower disclosures to attorneys. See 45 C.F.R. § 164.502(j). . . . Further, Kuhn and Hippi point out that the Indiana privacy law at issue contains a provision allowing disclosures authorized by other statutes. See I.C. § 16-39-5-3(k) ("This chapter does not do any of the following: (1) repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person ..."). This Court finds Kuhn and Hippi's interpretation of these statutes persuasive and, accordingly, determines that Kuhn and Hippi's disclosure of patient records to outside counsel was "lawful."²⁴

Relevant annotations to IND. CODE ANN. §§ 16-39-2-7 (re: discovery or admissibility without patient consent) and 16-39-2-8 (Court-ordered release).

- Trial court abused its discretion, in personal injury action alleging mental anguish as component of damages, by denying plaintiff's motion to reconsider order compelling plaintiff's psychiatrist to release her mental health records to defendant; though plaintiff had placed her mental condition in issue, she did not perform any act so incompatible with invoking her statutory right to a hearing on release of records that she waived the right, and denial of her motion effectively ordered disclosure of records without her consent and

²² [Rocca v. Southern Hills Counseling Center, Inc., App.1996, 671 N.E.2d 913](#), rehearing denied.

²³ *GPH v. Giles*, 1991, 578 N.E.2d 729, rehearing denied, transfer denied.

²⁴ *Kuhn v. LaPorte County Comprehensive Mental Health Council*, 3:06-CV-317 CAN, 2008 WL 4099883 (N.D. Ind. Sept. 4, 2008).

without a hearing.²⁵

- Patient, in action against counselors for malpractice, fraud, and outrage, was entitled to award of attorney's fees incurred in bringing motion to quash counselors' subpoena that sought discovery of patient's confidential mental health records, since patient prevailed on motion, and counselors' attorney was not substantially justified in trying to obtain records via subpoena.²⁶

Relevant citing reference to IND. CODE ANN. § 16-39-1-5 (Withholding requested information):

- Okolocha is correct that he was entitled to charge his \$15 copying fee for providing the Plaintiff with Sutton's prenatal care records. However, there is nothing in I.C. 16-39-9-4 or 760 IAC 1-71-3 that authorizes health care providers to withhold a patient's records until the copying fee *is* paid. I.C. § 16-39-1-5 demonstrates that health care providers do not possess such power. Thus, Okolocha cannot defend his failure to release Sutton's medical records to the plaintiffs on the grounds that he was entitled to withhold the documents until either his copying fees were paid or until Sutton's bill for previous medical services were paid.²⁷

Contents of the record that are mandated by law

Indiana psychologists “shall keep accurate, current, and pertinent records of psychological services that are rendered or performed... These records shall include at least the following:²⁸

- (1) Identifying data.
- (2) Dates of services.
- (3) Types of services.
- (4) Significant actions taken.

The records shall be made within a reasonable time after the rendering of the service, and under the law, the psychologist must give a truthful, candid, and reasonably complete account of the patient's or client's condition to the patient or client or to those responsible for the care of the patient or client.

²⁵ [Buford v. Flori Roberts, Inc., App.1996, 663 N.E.2d 1159.](#)

²⁶ *Munsell v. Hambricht*, 776 N.E.2d 1272 (Ind. Ct. App. 2002).

²⁷ *Jeffrey v. Kirsh & Kirsh*, 2011 WL 8960414.

²⁸ 868 IND. ADMIN. CODE § 1.1-11-4.2.

Patients shall be kept fully informed as to the purpose and nature of any evaluations, treatments, or other procedures and shall retain full freedom of choice with regard to participation in and the receipt of psychological services.²⁹ Information in the patient's records or obtained during the course of service is confidential and shall not be disclosed without the patient's or client's written permission unless disclosure is required by law.³⁰ As part of the informed consent process at the beginning of psychological services, psychologists should provide disclosure about the several circumstances under which privileged communication is abrogated under the laws of Indiana.³¹

A psychologist licensed under this article may not disclose any information acquired from persons with whom the psychologist has dealt in a professional capacity, except under the following circumstances:

- (1) Trials for homicide when the disclosure relates directly to the fact or immediate circumstances of said homicide.
- (2) Proceedings the purpose of which is to determine mental competency, or in which a defense of mental incompetency is raised.
- (3) Actions, civil or criminal, against a psychologist for malpractice.
- (4) Upon an issue as to the validity of a document such as a will of a client.
- (5) If the psychologist has the expressed consent of the client or subject, or in the case of a client's death or disability, the express consent of the client's legal representative.

In addition, the following mandatory reporting duties would require releasing the confidential of the patients, and these duties should be disclosed:

- Duty to report abuse or neglect of a child;³²
- Duty to report to a neglected, battered or exploited “endangered adult;”³³

²⁹ 868 IND. ADMIN. CODE § 1.1-11-4.2(b).

³⁰ 868 IND. ADMIN. CODE §1.1-11-4.2(c) & (e).

³¹ IND. CODE ANN. § 25-33-1-17.

³² IND. CODE ANN. § 31-33-5-1.

³³ IND. CODE ANN. § 12-10-3-9.

- Duty to warn or protect if the patient has communicated an actual threat of physical violence or other means of harm against a reasonably identifiable victim or victims, or evidences conduct or makes statements indicating an imminent danger that the patient will use physical violence or use other means to cause serious personal injury or death to others.³⁴
- Duty to report if the patient presents a "serious and present danger to the health of others" under the following conditions: (1) The carrier engages repeatedly in a behavior that has been demonstrated epidemiologically (as defined by rules adopted by the state department under IC 4-22-2) to transmit a dangerous communicable disease or that indicates a careless disregard for the transmission of the disease to others.³⁵

Two other mandatory components of a psychological record may become necessary under Indiana law:³⁶

...(e) When a potentially harmful relationship becomes apparent, the psychologist shall clarify the nature of the relationship and attempt to resolve it with due regard for the best interests of the patient or client. Whenever a psychologist's objectivity or competency becomes impaired during a professional relationship with a patient or client, the psychologist shall notify the patient or client orally and in writing that the psychologist can no longer provide professional services, and the psychologist shall assist the patient or client in obtaining services from another professional.

(f) If termination of the professional relationship is necessary, the psychologist shall:

- (1) immediately terminate the professional relationship in an appropriate manner;
- (2) notify the patient or client orally and in writing of this termination; and
- (3) assist the patient or client in obtaining services from another professional.

³⁴ IND. CODE ANN. § 34-30-16-1.

³⁵ IND. CODE ANN. § 16-41-7-1.

³⁶ 868 IND. ADMIN. CODE § 1.1-11-4.1.

Maintenance and security of records³⁷

The information contained in the mental health record belongs to the patient involved as well as to the provider; the record for each patient receiving mental health services shall be maintained by the provider, who is:³⁸

- ...(2) responsible for the record's safekeeping; and
- (3) entitled to retain possession of the record.

Psychologists in Indiana must protect the confidential information obtained in the professional relationship with a patient or recorded, and shall not disclose the information in any way without the patient's written permission unless disclosure is required by law.³⁹

Without the consent of the patient, the patient's mental health record may only be disclosed as follows:⁴⁰

- (1) To individuals who meet the following conditions:
 - (A) Are employed by:
 - (i) the provider at the same facility or agency;
 - (ii) a managed care provider (as defined in IC 12-7-2-127(b)); or
 - (iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.
 - (B) Are involved in the planning, provision, and monitoring of services.
- (2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.
- (3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.

However, interprovider exchange of records without patient's consent is permitted by

³⁷ Various recordkeeping provisions apply to psychologists working in licensed private mental health institutions. *See* 440 IND. ADMIN. CODE 1.5-1-1 through 1.5-3-13 (re: "Licensure of Private Mental Health Institutions") and other hospitals. *See*, IND. CODE ANN. §§ 34-43-1-1 to 34-43-1-17, (Title 43 - Civil Procedure, Article 43. Evidence: Medical Records, Chapter 1. Hospitals).

³⁸ IND. CODE ANN. § 16-39-2-2.

³⁹ 868 IND. ADMIN. CODE § 1.1-11-4.2 (c) & (e).

⁴⁰ IND. CODE ANN. § 16-39-2-6(a).

Indiana law to obtain a patient's health records from another provider without the patient's consent if the health records are needed to provide health care services to the patient.⁴¹ Records also may be released without specific written authorization for legitimate business purposes, including the following:⁴²

(c) by the provider for

- (1) Submission of claims for payment from third parties.
- (2) Collection of accounts.
- (3) Litigation defense.
- (4) Quality assurance.
- (5) Peer review.
- (6) Scientific, statistical, and educational purposes.

(d) In use under subsection (c), the provider shall at all times protect the confidentiality of the health record and may disclose the identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

(e) A provider may disclose a health record to another provider or to a nonprofit medical research organization to be used in connection with a joint scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

(f) A provider may disclose a health record or information obtained from a health record to the Indiana Hospital Trade Association ...[and to] the State Department for a Public Health Activity...

Psychological testimony or records are not discoverable or admissible in any legal proceeding without the consent of the patient or a court orders the release of the patient's mental health record without the patient's consent upon the showing of good cause following a hearing under IC 16-39-3 or in a proceeding under IC 31-30 through IC 31-40 following a hearing held under the Indiana Rules of Trial Procedure.⁴³

⁴¹ IND. CODE ANN. § 16-39-5-1.

⁴² IND. CODE ANN. § 16-39-5-3.

⁴³ IND. CODE ANN. §§ 16-39-2-7 & 16-39-2-8.

In addition, psychologists, as “health care providers” may have further obligations to treat patient records in the following manner:

Patient's access to records⁴⁴

(a) Health records may be requested by a competent patient if the patient is:

- (1) emancipated and less than eighteen (18) years of age; or
- (2) at least eighteen (18) years of age.

(b) If a patient is incompetent, the request for health records may be made by the parent, guardian, or custodian of the patient.

(c) Health records of a deceased patient may be requested by a coroner under IC 36-2-14-21 or by the personal representative of the patient's estate. If the deceased does not have a personal representative, the spouse of the deceased patient may make a request. If there is no spouse:

- (1) a child of the deceased patient; or
- (2) the parent, guardian, or custodian of the child if the child is incompetent;

may make a request.

Patient's written consent for release of records must include the following:⁴⁵

- 1) The name and address of the patient.
- (2) The name of the person requested to release the patient's record.
- (3) The name of the person or provider to whom the patient's health record is to be released.
- (4) The purpose of the release.
- (5) A description of the information to be released from the health record.
- (6) The signature of the patient, or the signature of the patient's legal representative if the patient is incompetent.
- (7) The date on which the consent is signed.
- (8) A statement that the consent is subject to revocation at any time, except to the extent that action has been taken in reliance on the consent.
- (9) The date, event, or condition on which the consent will expire if not previously revoked.

⁴⁴ IND. CODE ANN. § 16-39-1-3.

⁴⁵ IND. CODE ANN. § 16-39-1-4; IND. CODE ANN. § 16-39-2-5 specifies the contents for access to records from a patient's designee or legal representative.

Withholding requested information⁴⁶

If a provider ...reasonably determines that the information requested ...is:

- (1) detrimental to the physical or mental health of the patient; or
- (2) likely to cause the patient to harm the patient or another;

the provider may withhold the information from the patient.

Retention of Records

The regulations promulgated by Indiana's Board set forth the following requirements regarding the retention of records by psychologists:⁴⁷

Clinical records shall be maintained intact for a minimum of seven (7) years.

Discontinuation of the practice of psychology⁴⁸

A psychologist shall notify all active patients or clients in writing and by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community of the intention to discontinue practice and shall encourage the patients or clients to seek the services of another psychologist or other professional. The psychologist shall make reasonable arrangements with the patients or clients for the transfer of the records, or copies, to the succeeding practitioner. As used in this subsection, "active patient or client" refers to any patient or client with whom the psychologist has consulted within the two (2) year period prior to retirement or discontinuation of practice.

Violations of the specific duties

The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, 6.7, or 6.9 of this chapter or IC 25-1-5-4:⁴⁹

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:

⁴⁶ IND. CODE ANN. § 16-39-1-5; IND. CODE ANN. § 16-39-1-6 specifies the law about denying requests for inpatient requests of records.

⁴⁷ 868 IND. ADMIN. CODE §1.1-11-4.2; IND. CODE ANN. § 16-39-7-1.

⁴⁸ 868 IND. ADMIN. CODE §1.1-11-4.2(f).

⁴⁹ IND. CODE ANN. § 25-1-9-9.

- (A) report regularly to the board upon the matters that are the basis of probation;
- (B) limit practice to those areas prescribed by the board;
- (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
- (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation ...except for a finding of incompetency due to a physical or mental disability ...If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine...